

EXHIBIT 17

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOOGLE INC.,
Plaintiff,

v.

INFOGATION CORP.,
Defendant.

Case No. [16-cv-05821-VC](#)

**ORDER GRANTING MOTION TO
DISMISS**


The motion to dismiss is granted. For all the reasons discussed at the hearing, assuming for argument's sake that there's a concrete enough controversy between Google and Infogation to allow a district court to exercise its discretion to entertain this declaratory judgment action, the particular circumstances of this case weigh against doing so here.

Among these circumstances is Judge Huff's denial of the motions to stay the Southern District cases. It makes no sense for those cases and this one to proceed at the same time in different federal courts in California. Google acknowledges this, but the solution it proposes is rather convoluted. Google argues that Judge Huff was wrong to deny the motions to stay, and that this court should, in light of her alleged error, allow *this* case to go forward also, which would set the stage for Google to file a writ petition in the Federal Circuit seeking a stay of the Southern District cases, which would result (if the Federal Circuit in fact granted the writ petition) in this case going forward while the Southern District cases are stayed. There is a more orderly solution that does not risk harming anyone's interests: Google can move to intervene in the Southern District cases. *See Proofpoint, Inc. v. InNova Patent Licensing, LLC*, No. 5:11-CV-02288-LHK, 2011 WL 4915847, at *7 (N.D. Cal. Oct. 17, 2011). Infogation has already made

clear it would not oppose such a motion. And if, as Google argues, litigation of this patent dispute in the Southern District of California would truly be so inconvenient, nothing prevents Google and the cell phone manufacturers in those cases from moving to transfer them under 28 U.S.C. § 1404(a).

IT IS SO ORDERED.

Dated: January 6, 2017



VINCE CHHABRIA
United States District Judge